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UNCED'S UNCERTAIN LEGACY: AN INTRODUCTION TO THE ISSUE

PAUL STANTON KIBEL*

In the summer of 1992, Rio De Janeiro, Brazil hosted the United Nations Conference on Environment and Development ("UNCED"). UNCED, or the Earth Summit as it came to be known, is acknowledged as a watershed event in the history of global environmental politics and international environmental law. The particular historical significance of the event, however, remains a point of great contention. There are some who view UNCED as evidence of the international community's willingness to acknowledge and forge effective responses to the planet's environmental problems. There are others who perceive the event as evidence of the opposite, of the international community's fundamental failure to acknowledge the causes, magnitude or consequences of global environmental decline.

One way to make sense of these disparate views of the Earth Summit is to focus in on the concept of "sustainable development." This concept existed before the summer of 1992. It had been introduced and promoted in previous publications such as the International Union for the Conservation of Nature's *World Conservation Strategy* (1980), Lester R. Brown's *Building a Sustainable Society* (1981) and the World Commission on Environment and Development's *Our Common Future* (1987).¹ Although the term was in intellectual circulation in

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¹ Donald Worster, *The Shaky Ground of Sustainability*, in *DEEP ECOLOGY FOR THE*

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the 1980s, UNCED represented the first embrace of the concept of sustainable development at the level of global diplomacy and international law. This embrace can be confirmed by reviewing the agreements signed at the Earth Summit, such as Agenda 21,² the Statement of Forest Principles³ and the Rio Declaration on Environment and Development.⁴ In Agenda 21, the term sustainable development appears 24 times. The phrase is used 11 times in the Statement of Forest Principles. In the Rio Declaration on Environment and Development, it is mentioned seven times.

The debate over the historical significance of UNCED is in large part a debate over the meaning of the concept of sustainable development. It is a term that suggests the need to balance environmental priorities with economic development priorities, and the need to conduct economic development activities in a manner that does not jeopardize the interests of future generations.

For those who view UNCED as a positive historical development, there is an endorsement of the concept of sustainable development. This endorsement is critical to their assessment of the Earth Summit and the decade since the event. For these people, the problem is not the inadequacy of the conceptual underpinnings of the treaties negotiated at Rio, but rather the failure of the international community to develop and implement policies that reflect these conceptual underpinnings. For instance, in the summer of 2002 Johannesburg, South Africa will host the World Summit on Sustainable Development ("WSSD"), which is being billed by the United Nations as

TWENTY-FIRST CENTURY 417, 418 (Shambhala 1995) [hereinafter Worster]; GARETH PORTER & JANET WELSH BROWN, GLOBAL ENVIRONMENTAL POLITICS 25 (Westview Press 1996); *Our Common Future*, discussed in the accompanying text, is often referred to as the Brundtland Report, after the commission's chair, Norwegian Prime Minister Gro Harlem Brundtland.

² Agenda 21. Adopted at the U.N. Conference on Environment and Development (UNCED) at Rio de Janeiro, 13 June 1991. U.N. Doc. A/CONF. 151/26 (Vol. I, II, & III): Table of Contents & Chs. 5, 15, 17, 20, 33.

³ Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests. Adopted at the U.N. Conference on Environment and Development (UNCED) at Rio de Janeiro, 13 June 1992. U.N. Doc. A/CONF. 151/26 (Vol. III)(1992), 31 I.L.M. 881 (1992).

⁴ Rio Declaration on Environment and Development, Adopted at the U.N. Conference on Environment and Development (UNCED) at Rio de Janeiro, 13 June 1991. U.N. Doc. A/CONF. 151/26 (Vol. I), 31 I.L.M. 874 (1992).

"Rio+10". Non-government organizations ("NGOs") were invited by the United Nations Commission on Sustainable Development to submit comments on the upcoming WSSD. In response to this invitation, in January 2002 a coalition of European and developing nation NGOs submitted the following comments:

The UNCED process generated unprecedented levels of awareness around environmental issues, and the link between the environment and development. There were high hopes and commitments to achieve the integration of environment and development in a new North-South partnership...However, almost 10 years after Rio, the sustainable development agenda has failed to be implemented...The nexus between environment and development that was affirmed in Rio has been weakened, if not broken, in policy and political terms.⁵

According to these comments, the challenge before us is to return and recommit to the principle of sustainable development articulated at the Earth Summit.

There are others, however, who maintain that the embrace of sustainable development at UNCED explains why there has been such little progress on the international environmental front over the past decade. As Donald Worster, professor of environmental history at the University of Kansas, explains:

Like most popular slogans, sustainable development begins to wear thin after a while. Although it seems to have gained a wide acceptance, it has done so by sacrificing real substance. Worse yet the slogan may turn out to be irredeemable for environmentalists' use because it may inescapably compel us to adopt a narrow economic language, standard of judgments, and world view in approaching and utilizing the earth...I find the following deep flaws in the sustainable development ideal. First, it is based on the view that the natural world exists primarily to serve the material demands of the human species. Nature is nothing more than a pool of 'resources' to be exploited; it has no intrinsic meaning or value apart from the

⁵ *Dialogue Paper by Non-Governmental Organization*, Jan. 28, 2002, prepared jointly by the Third World Network, the Environmental Liaison Centre International, the Danish 92 groups and the Northern Alliance for Sustainability for the United Nations Commission on Sustainable Development acting as the Preparatory Committee for the World Summit on Sustainable Development.

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goods and services it furnishes people, rich or poor. The Brundtland Report makes this point clear on every page: the "our" in its title refers to people exclusively, and the only moral issue it raises is the need to share what natural resources there are more equitably among our kind, among the present world population and among generations to come. That is not by any means an unworthy goal, but it is not adequate to the challenge.⁶

According to Worster, UNCED's acceptance of sustainable development as a sufficient policy objective and moral basis has diluted both the language and the substance of global environmental protection efforts.

The debate over the meaning of sustainable development lies at the core of this special symposium edition of the Golden Gate Environmental Law Journal, entitled *Rio's Decade: Reassessing the 1992 Earth Summit*. This edition examines the substance and implementation of the international agreements that were negotiated at UNCED. There are three sets of articles in the edition, each focusing on a particular Earth Summit treaty.

The first set of articles focuses on the 1992 United Nations Framework Convention on Climate Change. The lead article in this set, co-authored by Nuno Lacasta and Eva Powroslo of the Center for International Environmental Law and Suraje Dessai of EURONATURA, explores the complex evolution of the European Union's climate change policy over the past decade.⁷ Next, the United States' climate change policy under President William Clinton is reviewed by Amy Royden, a former attorney with the Clinton Administration's State Department and Energy Department. In the last piece, Professor Armin Rosenzanz of Stanford University considers the climate change policies advanced so far by President George W. Bush.

The second set of articles assesses the 1992 Convention on Biological Diversity ("Biodiversity Convention"). First, Professor Robert Blomquist of Valparaiso University School of Law deconstructs the domestic political dynamics that have to date prevented the United States from ratifying the treaty. Next,

⁶ Worster, *supra* note 1, at 418-424.

⁷ Since this article was completed, Nuno Lacasta has accepted a position in Lisbon with the Government of Portugal's Environment Ministry.

Shalini Bhutani of the Research Foundation for Science, Technology & Ecology and Ashish Kothai of Kalpavritsch assess the international debate over biodiversity rights from the vantage point of developing nations such as India.

The final set of articles evaluates the 1992 Statement of Forest Principles. The lead article, by attorney Melanie Steiner of the World Wildlife Fund-Canada, chronicles the development of international forest policy since UNCED and in particular the prospects for the recently launched United Nations Forum on Forests. In the second piece, Godber Tumushabe, attorney and Executive Director for the Uganda-based Advocates Coalition for Development and Environment, evaluates the efforts of Kenya, Uganda and Tanzania to translate the Statement of Forest Principles into improved national forest conservation policies.

The articles in this special *Rio's Decade* symposium invite us to take a critical look at whether the agreements negotiated at UNCED are obstacles or opportunities to halting global environmental decline and the worldwide abuse of natural resources. This backward assessment is essential to deciphering how to best move forward.